

US PTO Customer No.: 25280

Case No. 5668

REMARKS35 USC Section 112 Rejection:

Claims 3, 6 and 10 were rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

More specifically, the Examiner notes:

- (a) In claim 3, the phrase "acrylic amides oligomers" is not understood.
- (b) In claim 6, methacrylate-containing compounds is listed twice.
- (c) In claim 10, it is unclear as to why applicant uses the term "ratio(s)" and "range(s)."

Applicants have cancelled claims 3, 6 and 10. Thus, Applicants respectfully submit that the rejection is now moot.

35 USC Section 102 Rejections:

Claims 1 – 3, 8, 10 – 18 and 21 – 22 were rejected under 35 USC 102(b) as being anticipated by Bullock et al. (US Patent No. 6,251,210).

The Examiner submits that the reference teaches, in the table found in column 19, a composition that appears to encompass that which is instantly claimed. More specifically, it is the position of the Examiner that "the fluorochemical compound meets applicants repellent and soil release component as the types of fluorochemical useable include those that provide water repellency and stain resistance (see column 12, lines 7+) and since both can be fluorochemicals." As for the properties recited in the claims, the Examiner submits that these properties are considered inherent since the composition is the same absent evidence showing otherwise.

Applicants have cancelled claims 1 – 3, 8, 10 – 18 and 21 – 22. Thus, Applicants respectfully submit that the rejection is now moot.

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Claims 1 – 4, 6, and 8 – 22 were rejected under 35 USC 102(e) as being anticipated by Kimbrell, Jr. et al. (US Patent Application No. 2004/0138083).

The Examiner submits that the reference teaches, in the claims, a composition for imparting durable repellency and stain release to a substrate (such as a textile), said composition comprising the resultant product of at least one hydrophilic stain release agent, at least one hydrophobic stain repellency agent crosslinked by at least one hydrophobic cross-linking agent. The Examiner further submits that the hydrophilic stain release agent meets Applicants' hydrophilic resin component and soil release agent as the agent is hydrophilic and may be a resin material (claim 5 of reference cited) and because it is a stain release agent. As for the properties, they are considered by the Examiner to be inherent since the composition is the same absent evidence showing otherwise.

Applicants have cancelled claims 1 – 4, 6, and 8 – 22. Thus, Applicants respectfully submit that the rejection is now moot.

Claims 1 – 4, 6, and 8 – 22 were rejected under 35 USC 102(e) as being anticipated by Kimbrell, Jr. et al. (US Patent Application No. 2004/0137154).

The Examiner submits that the reference teaches, in the Examples, a composition for imparting durable repellency and stain release to a substrate (such as a textile), said composition comprising at least one hydrophilic stain release agent, at least one hydrophobic stain repellency agent crosslinked by at least one hydrophobic cross-linking agent. The Examiner further submits that the hydrophilic stain release agent meets Applicants' hydrophilic resin component and soil release agent as the agent is hydrophilic and may be a resin material (paragraph 0051 of reference cited) and because it is a stain release agent. As for the properties, they are considered by the Examiner to be inherent since the composition is the same absent evidence showing otherwise.

Applicants have cancelled claims 1 – 4, 6, and 8 – 22. Thus, Applicants respectfully submit that the rejection is now moot.

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35 USC Section 103 Rejections:

Claims 1 – 6, 8, 10 – 18 and 21 – 22 were rejected under 35 USC 103(a) as being unpatentable over Xlao et al. (US Patent No. 5,747,392).

The Examiner submits that the reference teaches a composition useful for preparing water repellent, stain resistant, weatherable and transfer printable coated fabrics using a composition comprising a polyurethane latex, an acrylic latex, a fluorochemical and other additives such as fungicides, a crosslinking agent, a fire retarding agent, thickeners etc. (see col. 11, lines 47+).

While the reference does not specifically recite a composition comprising all of the recited components, the Examiner submits that it does teach that one may be formulated. It is also the position of the Examiner that while the reference does not specifically recite that the composition possesses the same properties, the treated textile substrate of the reference would obviously possess the same properties since the use of the same components is suggested.

Applicants have cancelled claims 1 – 6, 8, 10 – 18 and 21 – 22. Thus, Applicants respectfully submit that the rejection is now moot.

Claims 6 was rejected under 35 USC 103(a) as being unpatentable over Bullock et al. (US Patent No. 6,251,210).

While the reference does not specifically provide for an example using the instantly claimed resins, the Examiner submits that it does teach that polyvinyl alcohols etc. are useable as the thickeners and accordingly the use of polyvinyl alcohol is believed to be obvious over the reference.

Applicants have cancelled claim 6. Thus, Applicants respectfully submit that the rejection is now moot.

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Double Patenting Rejections:

Claims 1 – 4, 6 and 8 – 22 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 – 17 of copending Application No. 10/340,300 (US Patent Application Publication No. US 2004/0138083 A1).

Claims 1 and 11 – 14 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 – 2, 7 and 13 of copending Application No. 10/339,840 (US Patent Application Publication No. US 2004/0137154 A1).

In both instances, the Examiner submits that the copending applications are broader in scope than the instant claims and as such they are seen to render obvious the instant claims.

Applicants have cancelled claims 1 – 4, 6 and 8 – 22. Thus, Applicants respectfully submit that the rejection is now moot.

Conclusion:


For the reasons set forth above, it is respectfully submitted that claims 7 and 23 – 34 now stand in condition for allowance. Should any issues remain after consideration of this Response and Amendment, the Examiner is invited and encouraged to telephone the undersigned in the hope that any such issue may be promptly and satisfactorily resolved.

To any extent required for acceptance of this paper, an extension of time is hereby requested. In the event that there are additional fees associated with the submission of these papers (including extension of time fees), authorization is hereby provided to withdraw such fees from Deposit Account No. 04-0500.

Respectfully requested,

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Milliken & Company
Legal Department, M-495
920 Milliken Road
PO Box 1926
Spartanburg, SC 29304


Brenda D. Wentz
Agent for Applicants
Registration Number: 48,643
(864) 503-1597